

Order Prepared and Submitted By:

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**THE UNITED STATES BANKRUPTCY COURT FOR
THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

MAXWELL M. HUNTER,

Debtor.

BLUE OX DEVELOPMENT, LLC,

Plaintiff,

vs.

MAXWELL M. HUNTER,

Defendant.

Bankruptcy Case 19-21181 KRA
Chapter 7

Adversary Proceeding 19-02072

Judge Kevin R. Anderson

FILED ELECTRONICALLY

**ORDER ON MOTION TO COMPEL: 1) PLAINTIFF TO SUPPLEMENT RESPONSES
TO INTERROGATORIES; 2) AARON JENSEN TO RESPOND TO A SUBPOENA;
AND 3) PAYMENT OF EXPENSES, INCLUDING ATTORNEY'S FEES**

Before the Court for ruling is Defendant Maxwell M. Hunter's ("Mr. Hunter") *Motion to Compel: 1) Plaintiff to Supplement Responses to Interrogatories; 2) Aaron Jensen to Respond to a Subpoena; and 3) Payment of Expenses, Including Attorney's Fees* [Dkt. Entry #34] (the "Motion to Compel"). The Motion to Compel seeks an order: 1) compelling Plaintiff Blue Ox Development, LLC ("Blue Ox") to supplement its responses to certain interrogatories issued by Mr. Hunter; 2) compelling Aaron Jensen ("Mr. Jensen") to respond to the subpoena Mr. Hunter served on him; and 3) requiring Blue Ox to pay Mr. Hunter's expenses, including his attorneys' fees, for having to bring the Motion to Compel.

On May 4, 2020, Mr. Hunter filed the Motion to Compel along with a notice of hearing [Dkt. Entry #35] (the "Notice of Hearing"), which was subsequently amended by Mr. Hunter on May 5, 2020. *See* Dkt. Entry #36 (correcting the Notice of Hearing's certificate of service). The Motion to Compel and the Notice of Hearing were served on Blue Ox and Mr. Jensen through CM-ECF on the date they were filed. The Notice of Hearing provided notice to parties-in-interest, including Blue Ox and Mr. Jensen, that in the absence of an objection filed no later than May 21, 2020, the hearing scheduled for June 9, 2020 at 10:00 a.m. may not be held and an order approving the Motion may be entered without a hearing.

On May 21, 2020, Blue Ox and Mr. Jensen filed a *Plaintiff's and Aaron Jensen's Objection to Defendant's Motion to Compel: 1) Plaintiff to Supplement Responses to Interrogatories; 2) Aaron Jensen to Respond to a Subpoena; and 3) Payment of Expenses, Including Attorney's Fees* (Doc. 34) [Dkt. Entry #41] (the "Objection"). The Objection opposed the relief requested in the Motion to Compel. On May 28, 2020, Mr. Hunter filed a reply memorandum in support of the Motion to Compel [Dkt. Entry #42] (the "Reply").

On June 9, 2020, a hearing on the Motion to Compel was held. Present at the hearing was Mark C. Rose (“Mr. Rose”), on behalf of Mr. Hunter, and Chad Rasmussen (“Mr. Rasmussen”), on behalf of Blue Ox and Mr. Jensen. All other appearances were noted on the records. At the hearing, the Court reviewed the allegations in the Motion to Compel, the Objection, and the Reply and listened to the arguments of Mr. Rose and Mr. Rasmussen on behalf of their respective clients.

Having reviewed the Motion to Compel, the Objection, the Reply, and all other documents submitted in this matter, listened to the arguments and representations of counsel, and made certain findings of fact and conclusions of law on the record, it is hereby **ORDERED** as follows:

1. Mr. Hunter’s *Motion to Compel: 1) Plaintiff to Supplement Responses to Interrogatories; 2) Aaron Jensen to Respond to a Subpoena; and 3) Payment of Expenses, Including Attorney’s Fees* [Dkt. Entry #34] is **GRANTED, in part, and DENIED, in part, as follows:**

a. Blue Ox shall supplement its response to Interrogatory #1, which Mr. Hunter served on Blue Ox, and provide specific details as to the facts in Blue Ox’s possession supporting its allegations that there was fraud, defalcation of fiduciary duty, or willful and malicious injury.

b. Mr. Jensen shall respond to the subpoena Mr. Hunter served on him on April 2, 2020 within twenty-one (21) days of June 9, 2020. However, in responding to the subpoena, the requests are limited to non-privileged/protected information (with counsel providing a privilege log for privileged/protected information) and requests eleven (11) through

thirteen (13) in the subpoena shall be limited to documents, text messages, e-mails, and/or communications related to civil case 180701161 (captioned: Blue Ox Development, LLC v. Legacy Fields, LLC, Todd Demarets, Tailor Built Homes, LLC, and Maxwell Hunter), which Blue Ox Development, LLC commenced against Legacy Fields, LLC, Todd Demarets, Tailor Built Homes, LLC, and Maxwell Hunter in the Second Judicial District Court for the State of Utah, bankruptcy case 19-21181 (captioned: In re Maxwell M. Hunter), which Mr. Hunter commenced on March 1, 2019 in the United States Bankruptcy Court for the District of Utah, adversary proceeding 19-02072 (captioned: Blue Ox Development, LLC v. Maxwell M. Hunter), which Blue Ox commenced against Maxwell M. Hunter in the United States Bankruptcy Court for the District of Utah, and/or LF Bungalows, LLC;

c. Mr. Rasmussen shall accept service of any subpoena or discovery request served by Mr. Hunter on Aaron Robertson.

d. Mr. Hunter's requests for expenses, including attorney's fees, is denied without prejudice.

-----END OF ORDER-----

Approved as to Form and Content By:

ALPINA LEGAL

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Chad Rasmussen
Attorneys for Blue Ox Development, LLC

* To be endorsed via CM-ECF

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **ORDER ON MOTION TO COMPEL: 1) PLAINTIFF TO SUPPLEMENT RESPONSES TO INTERROGATORIES; 2) AARON JENSEN TO RESPOND TO A SUBPOENA; AND 3) PAYMENT OF EXPENSES, INCLUDING ATTORNEY'S FEES** shall be served to the parties and in the manner designated below:

By Electronic Service: I certify that the parties of record in this case as identified below, are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

Chad Rasmussen, chad@alpinalegal.com

Mark C. Rose, mrose@mbt-law.com

All other parties entitled to electronic notice in this case.

Deputy Clerk